



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Washington, D.C. 20201

DEC 10 2007

**TO:** Daniel C. Schneider  
Acting Assistant Secretary for Children and Families

**FROM:** Daniel R. Levinson *Daniel R. Levinson*  
Inspector General

**SUBJECT:** Philadelphia County's Title IV-E Claims for Children for Whom the Contractual Per Diem Rate for Foster Care Services Exceeded \$300 From October 1997 Through September 2002 (A-03-06-00564)

Attached is an advance copy of our final report on Philadelphia County's Title IV-E claims for children for whom the contractual per diem rate for foster care services exceeded \$300. We will issue this report to the Pennsylvania Department of Public Welfare (the State agency) within 5 business days.

Philadelphia County's Department of Human Services (DHS) determines Title IV-E eligibility and contracts with foster parents, group homes, and institutional care facilities to provide foster care services. The contracts specify per diem rates negotiated with the respective facilities to cover the costs of their services. DHS submits quarterly summary invoices to the State agency for reimbursement of its foster care maintenance costs and claims administrative costs separately. The State agency submits claims for Federal funds to the Administration for Children and Families (ACF).

Our objective was to determine, for claims based on per diem rates exceeding \$300, whether the State agency claimed Title IV-E maintenance and associated administrative costs for Philadelphia County in accordance with Federal requirements from October 1997 through September 2002.

The State agency did not always claim Title IV-E maintenance and associated administrative costs for Philadelphia County in accordance with Federal requirements. Of the 100 maintenance claims sampled, which were based on per diem rates exceeding \$300, 45 were unallowable. Twenty-nine of these claims included costs for services provided by facilities that were not licensed or approved foster care providers, and 19 claims (including 3 claims with costs for facilities that were not licensed or approved foster care providers) included costs for services provided to ineligible children.

Based on the sample results, we estimated that the State agency improperly claimed \$7,140,495 for Title IV-E maintenance costs. Including associated administrative costs of \$4,553,494, we estimated that the State agency improperly claimed at least \$11,693,989 of the total \$33,282,491 (Federal share) claimed for Title IV-E reimbursement on behalf of Philadelphia County contractors that received per diem rates exceeding \$300.

We were unable to determine the allowability of the remaining \$21,588,502 claimed by the State agency because the contractors' per diem rates did not distinguish between services that were eligible or ineligible for Title IV-E reimbursement. However, individualized educational programs, social workers' progress notes, and other documentation indicated that the contractors provided some services, such as medical, educational, and rehabilitative services, that were not eligible for Title IV-E foster care maintenance payments.

We recommend that the State agency:

- refund to the Federal Government \$11,693,989, including \$7,140,495 in unallowable maintenance costs and \$4,553,494 in unallowable administrative costs, for the period October 1997 through September 2002;
- work with ACF to determine the allowability of the remaining \$21,588,502 claimed;
- work with ACF to identify and resolve any unallowable claims for maintenance payments at per diem rates exceeding \$300 made after September 2002 and refund the appropriate amount;
- discontinue claiming Title IV-E reimbursement for unlicensed facilities and ineligible children and services; and
- direct Philadelphia County to develop rate-setting procedures that separately identify maintenance and other costs, including related administrative costs, so that claims are readily allocable to the appropriate Federal, State, and local funding sources.

In its comments on our draft report, the State agency disagreed with all of the recommendations. The State agency did not provide additional documentation or explain its disagreement. After reviewing the State agency's comments, we continue to support our recommendations.

If you have any questions or comments about this report, please do not hesitate to call me, or your staff may contact Joseph J. Green, Assistant Inspector General for Grants and Internal Activities, at (202) 619-1175 or through e-mail at [Joe.Green@oig.hhs.gov](mailto:Joe.Green@oig.hhs.gov) or Stephen Virbitsky, Regional Inspector General for Audit Services, Region III, at (215) 861-4470 or through e-mail at [Stephen.Virbitsky@oig.hhs.gov](mailto:Stephen.Virbitsky@oig.hhs.gov). Please refer to report number A-03-06-00564.

Attachment



DEPARTMENT OF HEALTH & HUMAN SERVICES  
OFFICE OF INSPECTOR GENERAL  
OFFICE OF AUDIT SERVICES  
150 S. INDEPENDENCE MALL WEST  
SUITE 316  
PHILADELPHIA, PENNSYLVANIA 19106-3499

DEC 13 2007

Report Number: A-03-06-00564

Ms. Estelle B. Richman  
Secretary of Public Welfare  
Pennsylvania Department of Public Welfare  
P.O. Box 2675  
Harrisburg, Pennsylvania 17105

Dear Ms. Richman:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled "Philadelphia County's Title IV-E Claims for Children for Whom the Contractual Per Diem Rate for Foster Care Services Exceeded \$300 From October 1997 Through September 2002." We will forward a copy of this report to the HHS action official noted on the following page for review and any action deemed necessary.

The HHS action official will make final determination as to actions taken on all matters reported. We request that you respond to this official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

Pursuant to the principles of the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 104-231, OIG reports generally are made available to the public to the extent the information is not subject to exemptions in the Act (45 CFR part 5). Accordingly, within 10 business days after this report is issued, it will be posted on the Internet at <http://oig.hhs.gov>.

If you have any questions or comments about this report, please do not hesitate to call me, or contact Michael Walsh, Audit Manager, at (215) 861-4480 or through e-mail at [Michael.Walsh@oig.hhs.gov](mailto:Michael.Walsh@oig.hhs.gov). Please refer to report number A-03-06-00564 in all correspondence.

Sincerely,

Stephen Virbitsky  
Regional Inspector General  
for Audit Services

Enclosure

**Direct Reply to HHS Action Official:**

Mr. Michael Rolish  
Grants Officer  
Administration for Children and Families, Region III  
U.S. Department of Health and Human Services  
Suite 864, Public Ledger Building  
150 South Independence Mall West  
Philadelphia, Pennsylvania 19106-3499

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**PHILADELPHIA COUNTY'S  
TITLE IV-E CLAIMS FOR  
CHILDREN FOR WHOM THE  
CONTRACTUAL PER DIEM RATE  
FOR FOSTER CARE SERVICES  
EXCEEDED \$300  
FROM OCTOBER 1997  
THROUGH SEPTEMBER 2002**



Daniel R. Levinson  
Inspector General

December 2007  
A-03-06-00564

# ***Office of Inspector General***

<http://oig.hhs.gov>

---

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

## ***Office of Audit Services***

The Office of Audit Services (OAS) provides all auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations. These assessments help reduce waste, abuse, and mismanagement and promote economy and efficiency throughout HHS.

## ***Office of Evaluation and Inspections***

The Office of Evaluation and Inspections (OEI) conducts national evaluations to provide HHS, Congress, and the public with timely, useful, and reliable information on significant issues. Specifically, these evaluations focus on preventing fraud, waste, or abuse and promoting economy, efficiency, and effectiveness in departmental programs. To promote impact, the reports also present practical recommendations for improving program operations.

## ***Office of Investigations***

The Office of Investigations (OI) conducts criminal, civil, and administrative investigations of allegations of wrongdoing in HHS programs or to HHS beneficiaries and of unjust enrichment by providers. The investigative efforts of OI lead to criminal convictions, administrative sanctions, or civil monetary penalties.

## ***Office of Counsel to the Inspector General***

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support in OIG's internal operations. OCIG imposes program exclusions and civil monetary penalties on health care providers and litigates those actions within HHS. OCIG also represents OIG in the global settlement of cases arising under the Civil False Claims Act, develops and monitors corporate integrity agreements, develops compliance program guidances, renders advisory opinions on OIG sanctions to the health care community, and issues fraud alerts and other industry guidance.

# *Notices*

---

**THIS REPORT IS AVAILABLE TO THE PUBLIC**  
at <http://oig.hhs.gov>

In accordance with the principles of the Freedom of Information Act (5 U.S.C. 552, as amended by Public Law 104-231), Office of Inspector General, Office of Audit Services reports are made available to members of the public to the extent the information is not subject to exemptions in the act. (See 45 CFR part 5.)

## **OAS FINDINGS AND OPINIONS**

The designation of financial or management practices as questionable or a recommendation for the disallowance of costs incurred or claimed, as well as other conclusions and recommendations in this report, represent the findings and opinions of the HHS/OIG/OAS. Authorized officials of the HHS divisions will make final determination on these matters.



## **EXECUTIVE SUMMARY**

### **BACKGROUND**

Title IV-E of the Social Security Act, as amended, authorizes Federal funds for State foster care programs. For children who meet Title IV-E requirements, the Administration for Children and Families (ACF) provides the Federal share of States' costs, including maintenance (room and board) costs and administrative and training costs. In Pennsylvania, the Department of Public Welfare (the State agency) supervises the Title IV-E program.

Philadelphia County's Department of Human Services (DHS) determines Title IV-E eligibility and contracts with foster parents, group homes, and institutional care facilities to provide foster care services. The contracts specify per diem rates negotiated with the respective facilities to cover the costs of their services. DHS submits quarterly summary invoices to the State agency for reimbursement of its foster care maintenance costs and claims administrative costs separately. From October 1997 through September 2002, the State agency claimed \$33,282,491 (Federal share) in Title IV-E maintenance and associated administrative costs on behalf of Philadelphia County children for whom the per diem rate exceeded \$300.

### **OBJECTIVE**

Our objective was to determine, for claims based on per diem rates exceeding \$300, whether the State agency claimed Title IV-E maintenance and associated administrative costs for Philadelphia County in accordance with Federal requirements from October 1997 through September 2002.

### **SUMMARY OF FINDINGS**

The State agency did not always claim Title IV-E maintenance and associated administrative costs for Philadelphia County in accordance with Federal requirements. Of the 100 maintenance claims sampled, which were based on per diem rates exceeding \$300, 45 were unallowable, and some of the 45 claims contained multiple errors.

- Twenty-nine claims included costs for services provided by facilities that were not licensed or approved foster care providers.
- Nineteen claims included costs for services provided to ineligible children. (The 19 claims included 3 claims with costs for facilities that were not licensed or approved foster care providers.)

Based on the sample results, we estimated that the State agency improperly claimed \$7,140,495 for Title IV-E maintenance costs. Including associated administrative costs of \$4,553,494, we estimated that the State agency improperly claimed at least \$11,693,989 of the total \$33,282,491 (Federal share) claimed for Title IV-E reimbursement on behalf of Philadelphia County contractors that received per diem rates exceeding \$300.

We were unable to determine the allowability of the remaining \$21,588,502 claimed by the State agency because the contractors' per diem rates did not distinguish between services that were eligible or ineligible for Title IV-E reimbursement. However, individualized educational programs, social workers' progress notes, and other documentation indicated that the contractors provided some services, such as medical, educational, and rehabilitative services, that were not eligible for Title IV-E foster care maintenance payments.

## **RECOMMENDATIONS**

We recommend that the State agency:

- refund to the Federal Government \$11,693,989, including \$7,140,495 in unallowable maintenance costs and \$4,553,494 in unallowable administrative costs, for the period October 1997 through September 2002;
- work with ACF to determine the allowability of the remaining \$21,588,502 claimed;
- work with ACF to identify and resolve any unallowable claims for maintenance payments at per diem rates exceeding \$300 made after September 2002 and refund the appropriate amount;
- discontinue claiming Title IV-E reimbursement for unlicensed facilities and ineligible children and services; and
- direct Philadelphia County to develop rate-setting procedures that separately identify maintenance and other costs, including related administrative costs, so that claims are readily allocable to the appropriate Federal, State, and local funding sources.

## **STATE AGENCY'S COMMENTS AND OFFICE OF INSPECTOR GENERAL'S RESPONSE**

In its comments on our draft report (Appendix D), the State agency disagreed with all of the recommendations. The State agency did not provide additional documentation or explain its disagreement. After reviewing the State agency's comments, we continue to support our recommendations.

## TABLE OF CONTENTS

	<u>Page</u>
<b>INTRODUCTION</b> .....	1
<b>BACKGROUND</b> .....	1
Title IV-E Foster Care Program.....	1
Federal and State Licensing Requirements.....	1
Philadelphia County’s Title IV-E Program.....	2
Audits of the State Agency’s Title IV-E Claims .....	2
<b>OBJECTIVE, SCOPE, AND METHODOLOGY</b> .....	2
Objective.....	2
Scope.....	2
Methodology.....	3
<b>FINDINGS AND RECOMMENDATIONS</b> .....	4
<b>COSTS CLAIMED FOR CHILDREN IN UNLICENSED FACILITIES</b> .....	5
<b>COSTS CLAIMED FOR SERVICES PROVIDED TO INELIGIBLE CHILDREN</b> .....	6
Remaining in the Home Contrary to the Welfare of the Child .....	6
Age Requirements.....	7
Income Requirements .....	7
<b>COSTS CLAIMED FOR INELIGIBLE SERVICES</b> .....	8
<b>SUMMARY OF UNALLOWABLE AND POTENTIALLY UNALLOWABLE     TITLE IV-E COSTS</b> .....	9
<b>RECOMMENDATIONS</b> .....	9
<b>STATE AGENCY’S COMMENTS AND     OFFICE OF INSPECTOR GENERAL’S RESPONSE</b> .....	10
<b>APPENDIXES</b>	
A – SAMPLING METHODOLOGY	
B – SAMPLE RESULTS AND PROJECTIONS	
C – DEFICIENCIES OF EACH SAMPLED CLAIM	
D – STATE AGENCY’S COMMENTS	

## INTRODUCTION

### BACKGROUND

#### **Title IV-E Foster Care Program**

Title IV-E of the Social Security Act (the Act), as amended, authorizes Federal funds for States to provide foster care for children under an approved State plan. At the Federal level, the Administration for Children and Families (ACF) administers the program.

For children who meet Title IV-E foster care requirements, Federal funds are available to States for maintenance, administrative, and training costs:

- Maintenance costs cover room and board payments to licensed foster parents, group homes, and institutional care facilities. The Federal share of maintenance costs is based on each State's Federal rate for Title XIX (Medicaid) expenditures. During our audit period, the Federal share of Pennsylvania's maintenance costs ranged from 52.85 percent to 54.76 percent.
- Administrative costs cover staff activities such as case management and supervision of children placed in foster care and children considered to be Title IV-E candidates, preparation for and participation in court hearings, placement of children, recruitment and licensing for foster homes and institutions, and rate setting. Also reimbursable under this category is a proportionate share of overhead costs. The Federal share of administrative costs allocable to the Title IV-E program is 50 percent.
- Training costs cover the training of State or local staff to perform administrative activities and the training of current or prospective foster care parents, as well as personnel of childcare institutions. Certain State training costs qualify for an enhanced 75-percent Federal funding rate.

In Pennsylvania, the Department of Public Welfare (the State agency) supervises the Title IV-E foster care program through its Office of Children, Youth, and Families. The State agency administers the program through the counties.

#### **Federal and State Licensing Requirements**

Section 472(c) of the Act requires that foster homes and childcare institutions be licensed or approved as meeting the standards established for such licensing by the State to receive Title IV-E reimbursement. The Pennsylvania State plan incorporates by reference Pennsylvania Code requirements for licensing and approving Title IV-E reimbursable institutions (55 PA. CODE Chapters 3680, 3700, and 3800). The State agency grants licenses in accordance with Federal and State requirements, including standards related to admission policies, safety, sanitation, and the protection of civil rights.

## **Philadelphia County's Title IV-E Program**

In Philadelphia County, the Department of Human Services (DHS), Children and Youth Division, administers the Title IV-E program, which includes services for children supervised by Juvenile Justice Services. DHS determines Title IV-E eligibility and contracts with foster parents, group homes, and institutional care facilities to provide foster care services. The contracts specify per diem rates negotiated with the respective contractors to cover the costs of their services. Per diem rates vary by location and the type and extent of services provided.

Contractors submit invoices to DHS based on the negotiated per diem rates. DHS pays the invoices and then submits quarterly summary invoices to the State agency. DHS claims administrative costs separately. The State agency consolidates the claims from all 67 counties, including Philadelphia County, and submits Quarterly Reports of Expenditures and Estimates (Forms ACF-IV-E-1) to ACF to claim Federal funding.

### **Audits of the State Agency's Title IV-E Claims**

We are performing a series of audits of the State agency's Title IV-E foster care claims. Our first report, issued in October 2005, identified improper Castille program<sup>1</sup> claims submitted due to clerical errors.<sup>2</sup> The second report focused on the eligibility of Castille program services and children.<sup>3</sup> This report, the third in the series, focuses on Philadelphia County's foster care claims based on per diem rates exceeding \$300.

## **OBJECTIVE, SCOPE, AND METHODOLOGY**

### **Objective**

Our objective was to determine, for claims based on per diem rates exceeding \$300, whether the State agency claimed Title IV-E maintenance and associated administrative costs for Philadelphia County in accordance with Federal requirements from October 1997 through September 2002.

### **Scope**

Our review covered a universe of 1,512 claims for Title IV-E maintenance and associated administrative costs totaling \$33,282,491 (Federal share). These claims were based on per diem rates that exceeded \$300. During the audit period, DHS submitted 20 quarterly summary invoices to the State agency for Title IV-E maintenance and associated administrative costs totaling \$595,562,585 (Federal share). DHS provided the State agency with detailed lists in

---

<sup>1</sup>This program is a Philadelphia County court-ordered program for the placement of children convicted of a delinquent act. We refer to this program as the "Castille program."

<sup>2</sup>"Costs Claimed Under Title IV-E Foster Care Program for Children in Castille Contracted Detention Facilities From October 1, 1997, to September 30, 2002" (A-03-04-00586).

<sup>3</sup>"Claims Paid Under the Title IV-E Foster Care Program for Children in Castille Contracted Detention Facilities From October 1, 1997, to September 30, 2002" (A-03-05-00550).

support of the summary invoices. Each line on the detailed lists showed a child's name and the per diem rate, number of days, and maintenance costs claimed for the child. (We refer to these lines as "claims" in this report.) From the detailed lists, we identified the claims that were based on per diem rates exceeding \$300.<sup>4</sup>

From the universe of 1,512 claims, we randomly selected a statistical sample of 100 claims totaling \$1,267,578 (Federal share) for Title IV-E maintenance costs. Ten contractors provided the services for the 100 sampled claims at 16 facilities. Appendix A explains our sampling methodology, and Appendix B details the sample results and projections.

We requested but did not receive information about the development of the contractors' per diem rates. Specifically, we requested details on the costs for each service included in the rates.

Some services that we identified as unallowable for reimbursement as Title IV-E foster care costs, or for which we were unable to express an opinion, may have been allowable for reimbursement through other Federal programs. However, determining the allowability of costs for other Federal programs was not within the scope of this audit.

We reviewed only those internal controls considered necessary to achieve our objective.

We performed our fieldwork at the Philadelphia Family Courthouse and at DHS in Philadelphia, Pennsylvania, from February to October 2006.

## **Methodology**

To accomplish our objective, we:

- reviewed Federal and State criteria related to Title IV-E foster care claims,
- interviewed State agency personnel regarding the State agency's claims,
- reviewed the State agency's accounting system to identify all maintenance costs claimed for Federal reimbursement,
- obtained from the State agency DHS's quarterly summary invoices and detailed lists supporting the invoices,
- identified all Title IV-E maintenance claims based on per diem rates exceeding \$300,
- reviewed documentation provided by the State agency in support of the 100 sampled claims and reconciled maintenance costs to the amounts posted in the State agency's accounting records,

---

<sup>4</sup>Included in the 20 summary invoices were another 157,873 claims totaling \$562,280,094 for Title IV-E services paid at per diem rates of \$300 or less and associated administrative costs. These costs are being covered in a separate report.

- requested licensing information on the 16 facilities included in our sample from the State agency and from the contractors if the State agency could not provide the information, and
- requested all 10 contracts between DHS and the contractors included in our sample and reviewed the 5 contracts that the State agency provided.

State agency officials directed us to address all requests for information to the State agency instead of going directly to the social workers or the courts. Initially, we requested Philadelphia County’s social worker case files and any other documentation to support the State agency’s claims. The State agency provided us with social worker case files and a limited number of juvenile justice case files.<sup>5</sup> The State agency also contracted with MAXIMUS, Inc. (MAXIMUS), to gather and compile documentation to support the children’s Title IV-E eligibility, including court orders, Client Information System and Income Eligibility Verification System data, contractor information, social worker notes, and other data.<sup>6</sup>

After reviewing the information supplied by the State agency, we provided the State agency with a list of the documentation that we requested but did not receive. To date, the State agency has not supplied this information.

We questioned each unallowable claim only once regardless of how many errors it contained. We used a variable appraisal program to project the sample errors to the universe of claims.

We conducted our audit in accordance with generally accepted government auditing standards.

## **FINDINGS AND RECOMMENDATIONS**

The State agency did not always claim Title IV-E maintenance and associated administrative costs for Philadelphia County in accordance with Federal requirements. Of the 100 maintenance claims sampled, which were based on per diem rates exceeding \$300, 45 were unallowable.

- Twenty-nine claims included costs for services provided by facilities that were not licensed or approved foster care providers.
- Nineteen claims included costs for services provided to ineligible children. (The 19 claims included 3 claims with costs for facilities that were not licensed or approved foster care providers.)

Some of the 45 claims contained multiple errors, as shown in Appendix C.

---

<sup>5</sup>The juvenile justice case file is a shared file that gathers police, court, probation, and social service information for each child whom a judge has found guilty of a delinquent act and placed under the supervision of the court.

<sup>6</sup>The Client Information System is a statewide database of individuals who participate in social service programs. The Income Eligibility Verification System is a statewide wage-reporting system that documents earned and unearned income. Income and eligibility verification is required under section 1137 of the Act.

Based on the sample results, we estimated that the State agency improperly claimed \$7,140,495 for Title IV-E maintenance costs. Including associated administrative costs of \$4,553,494, we estimated that the State agency improperly claimed at least \$11,693,989 of the total \$33,282,491 (Federal share) claimed for Title IV-E reimbursement on behalf of Philadelphia County contractors that received per diem rates exceeding \$300.

We were unable to determine the allowability of the remaining \$21,588,502 claimed by the State agency because the contractors' per diem rates did not distinguish between services that were eligible or ineligible for Title IV-E reimbursement. However, individualized educational programs, social workers' progress notes, and other documentation indicated that the contractors provided some services, such as medical, educational, and rehabilitative services, that were not eligible for Title IV-E foster care maintenance payments.

### **COSTS CLAIMED FOR CHILDREN IN UNLICENSED FACILITIES**

Section 472(c)(2) of the Act requires that a childcare institution be "licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing . . . ." The Federal regulation (45 CFR § 1355.20) implementing section 472(c) of the Act states that a foster family home is "the home of an individual or family licensed or approved by the State licensing or approval authority . . . that provides 24-hour out-of-home care for children. The term may include group homes, agency operated boarding homes or other facilities licensed or approved for the purpose of providing foster care by the State agency responsible for approval or licensing such facilities."

Pursuant to section 472 of the Act, Pennsylvania's State plan requires that facilities be licensed or approved for foster care. Section 5 of the State plan establishes standards as required by section 471(a)(10) of the Act. The State plan also incorporates by reference Pennsylvania Code requirements for licensure and approval of foster homes and childcare institutions (55 PA. CODE Chapters 3680, 3700, and 3800).<sup>7</sup>

The State agency submitted 29 claims totaling \$389,594 for services provided by seven contractors in eight facilities for which neither the State agency nor the facilities could provide documentation that the facilities were licensed to provide foster care services or approved as meeting the standards established for such licensing. Further, we reviewed lists of Title IV-E eligible facilities, which the State agency had provided to ACF, as additional documentation in the absence of a license. None of the eight facilities appeared on the lists.<sup>8</sup>

---

<sup>7</sup>By reference to State Office of Children, Youth and Families Bulletin 3140-01-01, the State plan provides that medical facilities, such as psychiatric or general hospitals, are non-Title IV-E reimbursable placement facilities.

<sup>8</sup>The facilities may not have been on these lists because they appeared to be medical facilities.

## **COSTS CLAIMED FOR SERVICES PROVIDED TO INELIGIBLE CHILDREN**

The State agency submitted 19 claims totaling \$234,841 for services provided to children who did not meet Title IV-E foster care eligibility requirements.<sup>9</sup> Six of these claims were for children who were ineligible for multiple reasons.

- For 12 claims, the State agency did not document that remaining in the home was contrary to the children’s welfare or that placement would be in the best interest of the children.
- For 10 claims, the children did not meet Title IV-E age requirements.
- For three claims, the State agency did not document computation of the children’s family incomes.

### **Remaining in the Home Contrary to the Welfare of the Child**

Section 472(a)(1) of the Act requires that “the removal from the home occurred pursuant to a voluntary placement agreement entered into by the child’s parent or legal guardian, or was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child . . . .”<sup>10</sup> Pursuant to 45 CFR § 1356.21(d), judicial determinations that remaining in the home would be contrary to the welfare of the child or that placement would be in the best interest of the child must be documented by a court order or a transcript of the court proceedings.

For 12 claims, the State agency did not provide the necessary documentation to meet these requirements. Specifically, the State agency did not provide any documentation to indicate that it had entered into voluntary placement agreements with the children’s parents or legal guardians, nor did it provide court orders or transcripts to document that remaining in the home would be contrary to the children’s welfare.

- Documentation for seven claims included court orders for the commitment of the children, but the court orders did not show that continuation in the home would be contrary to the children’s welfare or that placement would be in the best interest of the children.
- Documentation for five claims did not include any voluntary placement agreements, court orders, or transcripts.

---

<sup>9</sup>The 19 claims included 3 claims totaling \$27,277 for services that were provided at unlicensed facilities.

<sup>10</sup>Section 472(a) of the Act was amended effective October 1, 2005. The applicable section is now 472(a)(2), which provides substantially similar requirements for removal of the child from the home.

## Age Requirements

Section 472(a) of the Act states that children for whom States claim Title IV-E funding must meet the eligibility requirements for Aid to Families with Dependent Children (AFDC) as established in section 406 or section 407 (as in effect on July 16, 1996).<sup>11</sup> Section 406(a)(2), as in effect on July 16, 1996, stated that the children must be “(A) under the age of eighteen, or (B) at the option of the State, under the age of nineteen and a full-time student in a secondary school (or in the equivalent level of vocational or technical training), if, before he attains age nineteen, he may reasonably be expected to complete the program of such secondary school (or such training).”

The State agency submitted 10 claims for children who were at least 18 years of age and could not reasonably have been expected to complete a secondary education program before age 19. According to juvenile justice case files; social worker case files; and documentation in the MAXIMUS-reconstructed eligibility files, including Client Information System data, birth certificates, progress reports, and other documentation, four claims were for children who were at least age 19 at the beginning of the claim period, four claims were for children who were age 18 during the entire claim period, and two claims were for children who turned 18 during the claim period.

Progress reports and discharge records showed that the six children who had not yet reached the age of 19 could not reasonably have completed secondary school or training before age 19. For example, one child entered a foster care facility 3 months before his 17<sup>th</sup> birthday. The child received special education classes, as well as therapy and vocational education, while enrolled in the facility’s adolescent sexual offenders’ program. He was over age 19 when he left the program and still needed to complete special education classes. Although the child did not meet Title IV-E age requirements, the State agency continued to claim Title IV-E costs on his behalf after he reached the age of 19.

## Income Requirements

Section 472(a)(4)(A) of the Act defines the needy child, in part, as one who “would have received aid [AFDC] under the State plan approved under section 402 (as in effect on July 16, 1996) in or for the month in which such [voluntary placement] agreement was entered into or court proceedings leading to the removal of such child from the home were initiated . . . .”<sup>12</sup>

Section 2 of Pennsylvania’s State plan incorporates, by reference to Office of Children, Youth and Families Bulletin 3140-01-01, the “standard of need” for each county based on the countable family income and number of family members. Countable income considers various expenses

---

<sup>11</sup>The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 repealed AFDC and established in its place the Temporary Assistance for Needy Families block grant. However, Title IV-E foster care requirements look back to the 1996 AFDC criteria for eligibility.

<sup>12</sup>Section 472(a) of the Act was amended effective October 1, 2005. The applicable section is now 472(a)(3), which provides a substantially similar definition of the needy child.

and payments, as well as earned wages and other household income. For Philadelphia County, the standard of need was based on a maximum countable income ranging from \$298 per month for a family of one to \$976 per month for a family of six, with an additional allowance of \$121 per family member over six.

For three claims submitted on behalf of one child, the State agency did not document that it had computed the countable family income. The documentation that the State agency provided did not identify the wages or other income of the child's family. Further, the documentation stated that the child was ineligible for AFDC.

## **COSTS CLAIMED FOR INELIGIBLE SERVICES**

Section 475(4)(A) of the Act defines "foster care maintenance payments" as:

. . . payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

ACF Policy Announcement 87-05, under "Unallowable Cost," provides examples of services that are not reimbursable under Title IV-E, including "physical or mental examinations, counseling, homemaker or housing services and services to assist in preventing placement and reuniting families." ACF Policy Interpretation Question 97-01 states that "education is not in the definition found at section 475 (4)(A)."

The maintenance costs included on the sampled claims were based on per diem rates that ranged from \$301 to \$489. We were unable to determine whether these maintenance costs were limited to costs for allowable Title IV-E services. The State agency did not provide information about which services were used to develop the per diem rates and did not require the contractors to itemize charges for services claimed.

However, children's individualized educational programs, social workers' progress notes, and other documentation indicated that the contractors provided some services that are not specified in section 475(4)(A) of the Act and that are therefore not eligible for Title IV-E maintenance funding. These services included medical, educational, and rehabilitative services, such as counseling and physical, occupational, or speech therapy.<sup>13</sup> For example, the psychiatric evaluation and discharge records for one child in our sample showed that he received individual, group, and family therapy; medication management; and educational services.

Because the State agency's per diem rates used for purposes of Federal reimbursement did not distinguish between services that were eligible or ineligible for Title IV-E reimbursement, we

---

<sup>13</sup>Some of these services may be allowable under other Federal programs or under State and local programs. However, determining the allowability of services under other programs was beyond the scope of this audit.

were unable to determine the reasonableness of the per diem rates or the costs of ineligible services included in the 100 sampled claims.

## **SUMMARY OF UNALLOWABLE AND POTENTIALLY UNALLOWABLE TITLE IV-E COSTS**

Of the 100 sampled claims, 45 claims totaling \$597,158 were unallowable because they included maintenance costs for services that were provided by unlicensed facilities or services that were provided to ineligible children. Projecting our sample results, we estimated that the State agency improperly claimed at least \$7,140,495 (Federal share) in maintenance costs. (See Appendix B.) In addition, we estimated that the State agency claimed at least \$4,553,494 (Federal share) in administrative costs associated with the unallowable maintenance costs.<sup>14</sup> These administrative costs also were unallowable.

We requested but were not provided with information about the services included in the contractors' per diem rates and their relative costs. Because of this limitation, we were not able to determine the allowability of the remaining \$21,588,502 claimed by the State agency for maintenance (\$13,182,208) and associated administrative costs (\$8,406,294).

## **RECOMMENDATIONS**

We recommend that the State agency:

- refund to the Federal Government \$11,693,989, including \$7,140,495 in unallowable maintenance costs and \$4,553,494 in unallowable administrative costs, for the period October 1997 through September 2002;
- work with ACF to determine the allowability of the remaining \$21,588,502 claimed;
- work with ACF to identify and resolve any unallowable claims for maintenance payments at per diem rates exceeding \$300 made after September 2002 and refund the appropriate amount;
- discontinue claiming Title IV-E reimbursement for unlicensed facilities and ineligible children and services; and
- direct Philadelphia County to develop rate-setting procedures that separately identify maintenance and other costs, including related administrative costs, so that claims are readily allocable to the appropriate Federal, State, and local funding sources.

---

<sup>14</sup>We calculated unallowable administrative costs by dividing the State agency's total Title IV-E claims for administrative costs (\$593,233,356) by its total Title IV-E claims for maintenance costs (\$857,954,391) plus training costs (\$72,252,983). We then applied the resultant percentage to the estimated \$7,140,495 in unallowable maintenance costs.

## **STATE AGENCY'S COMMENTS AND OFFICE OF INSPECTOR GENERAL'S RESPONSE**

In its comments on our draft report (Appendix D), the State agency disagreed with all of the recommendations. The State agency commented that our recommendations were without merit and contrary to law but did not provide additional documentation or explain its disagreement. The State agency indicated that it would provide its comments directly to ACF at a later date.

After reviewing the State agency's comments, we continue to support our recommendations, as well as our conclusion that the State agency did not always comply with Federal requirements in claiming Title IV-E costs for claims based on per diem rates exceeding \$300.

# **APPENDIXES**

## **SAMPLING METHODOLOGY**

### **OBJECTIVE**

Our objective was to determine, for claims based on per diem rates exceeding \$300, whether the State agency claimed Title IV-E maintenance and associated administrative costs for Philadelphia County in accordance with Federal requirements from October 1997 through September 2002.

### **UNIVERSE**

The universe consisted of 1,512 claim lines totaling \$20,322,703 (Federal share) submitted by the State agency on 20 detailed lists in support of 20 summary invoices for maintenance costs. These claim lines were based on per diem rates exceeding \$300. The 20 detailed lists contained alphabetical lists of children and the per diem rate, number of days, and maintenance costs claimed for each child. The lists covered claims paid from October 1, 1997, through September 30, 2002.

### **SAMPLE UNIT**

The sample unit was an individual claim line for a child for whom the per diem rate exceeded \$300 based on detailed lists submitted in support of the 20 summary invoices.

### **SAMPLE DESIGN**

We used an unrestricted variable random sample.

### **SAMPLE SIZE**

We selected for review a sample of 100 claim lines from the detailed lists.

### **SOURCE OF RANDOM NUMBERS**

We generated the random numbers for selecting the sample items using an approved Office of Inspector General, Office of Audit Services, statistical software package.

### **METHOD OF SELECTING SAMPLE ITEMS**

We obtained the summary invoices related to 20 voucher transactions listed on the State agency's accounting records and detailed lists of Title IV-E foster care children. We identified from the detailed lists all claim lines on behalf of children for whom the per diem rate exceeded \$300, and we numbered each of these lines. We generated a list of random numbers from 1 to 1,512 and selected for our sample the corresponding line on the detailed lists.

## SAMPLE RESULTS AND PROJECTIONS

### SAMPLE RESULTS

The results of our review of 100 sampled claim lines were as follows:

#### Sample Results

Number of Claim Lines in Universe	Value of Universe (Federal Share)	Sample Size	Number of Claim Lines With Errors	Value of Errors (Federal Share)
1,512	\$20,322,703	100	45 <sup>1</sup>	\$597,158

### VARIABLE APPRAISAL PROJECTIONS

Point estimate of unallowable Federal share (difference estimator)	\$9,029,025
Upper limit of unallowable Federal share (90-percent confidence level)	10,917,555
Lower limit of unallowable Federal share (90-percent confidence level)	7,140,495

---

<sup>1</sup>Although all 100 claims had errors, we were unable to quantify the errors for the other 55 claims due to data limitations.

## DEFICIENCIES OF EACH SAMPLED CLAIM

1	<b>Costs Claimed for Children in Unlicensed Facilities</b>
2	<b>Costs Claimed for Services Provided to Ineligible Children</b>
3	<i>Remaining in the Home Not Contrary to the Welfare of the Child</i>
4	<i>Age Requirements Not Met</i>
5	<i>Income Requirements Not Met</i>
5	<b>Costs Claimed for Ineligible Services</b>

## Office of Inspector General Review Determinations on the 100 Sampled Claims

Claim Number	1	2	3	4	5	No. of Deficiencies
1	X				X	2
2					X	1
3		X			X	2
4	X				X	2
5	X	X	X		X	4
6					X	1
7	X				X	2
8	X				X	2
9			X		X	2
10	X	X			X	3
11			X		X	2
12					X	1
13	X	X	X		X	4
14					X	1
15	X				X	2
16	X				X	2
17					X	1
18					X	1
19					X	1
20					X	1
21					X	1
22			X		X	2
23	X				X	2
24		X			X	2
25	X				X	2
26	X				X	2

Claim Number	1	2	3	4	5	No. of Deficiencies
27					X	1
28	X				X	2
29	X				X	2
30					X	1
31					X	1
32					X	1
33	X				X	2
34	X				X	2
35	X				X	2
36	X				X	2
37					X	1
38					X	1
39			X		X	2
40					X	1
41			X		X	2
42		X		X	X	3
43					X	1
44	X				X	2
45					X	1
46	X				X	2
47	X				X	2
48					X	1
49					X	1
50					X	1
51	X				X	2
52					X	1
53	X				X	2
54					X	1
55	X				X	2
56					X	1
57					X	1
58					X	1
59	X				X	2
60	X				X	2
61					X	1
62		X			X	2
63	X				X	2
64	X				X	2
65					X	1
66					X	1
67					X	1

<b>Claim Number</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>No. of Deficiencies</b>
68					X	1
69					X	1
70		X		X	X	3
71			X		X	2
72			X		X	2
73					X	1
74					X	1
75					X	1
76					X	1
77					X	1
78					X	1
79					X	1
80					X	1
81					X	1
82					X	1
83					X	1
84					X	1
85					X	1
86					X	1
87					X	1
88					X	1
89		X			X	2
90					X	1
91					X	1
92		X			X	2
93					X	1
94					X	1
95	X				X	2
96					X	1
97					X	1
98					X	1
99		X	X		X	3
100		X		X	X	3
<b>Total</b>	<b>29</b>	<b>12</b>	<b>10</b>	<b>3</b>	<b>100</b>	

One Logan Square, 27th Floor  
Philadelphia, PA 19103-6933  
215-568-0300 / facsimile  
30 North Third Street, Suite 700  
Harrisburg, PA 17101-1701  
717-364-1020 / facsimile  
20 Brace Road, Suite 201  
Cherry Hill, NJ 08034-2634  
856-616-2170 / facsimile  
www.hangley.com

HANGLEY  
ARONCHICK  
SEGAL  
& PUDLIN  
Attorneys at Law | A Professional Corporation

Mark A. Aronchick  
Direct Dial: 215.496.7002  
E-mail: maronchick@hangley.com

November 13, 2007

Via Hand Delivery

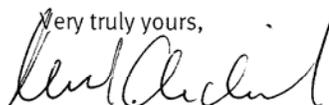
Stephen Virbitsky, Regional Inspector General for Audit Services  
United States Department of Health and Human Services  
Office of Inspector General  
Office of Audit Services  
150 South Independence Mall West, Suite 316  
Philadelphia, PA 19106-3499

Re: Report Number: A-03-06-00564

Dear Mr. Virbitsky:

I am writing on behalf of the Commonwealth of Pennsylvania, Department of Public Welfare in response to the draft report of the Department of Health and Human Services (HHS), Office of Inspector General (OIG) entitled "Philadelphia County's Title IV-E Claims for Children for Whom the Contractual *Per Diem* Rate for Foster Care Services Exceeded \$300 From October 1, 1997, to September 30, 2002" (Draft Report).

Pennsylvania strongly disagrees with all of the recommendations contained in the Draft Report and believes each recommendation to be without merit and contrary to law. Rather than respond to the Draft Report at this time, however, Pennsylvania has arranged to provide its comments directly to the Administration for Children and Families at a later date.

Very truly yours,  
  
Mark A. Aronchick

cc: Estelle B. Richman, Secretary of Public Welfare  
Michael Walsh, Audit Manager

